

ASSEMBLY BILL

No. 1186

Introduced by Assembly Member Jerome Horton

February 22, 2005

An act to amend 19826 of, and to add Sections 19826.10 and 19826.11 to, the Government Code, relating to state civil service.

LEGISLATIVE COUNSEL'S DIGEST

AB 1186, as introduced, Jerome Horton. State civil service.

Existing law generally requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service subject of any constitutional merit limits.

This bill would provide that notwithstanding any other provision of law, the department shall not establish, adjust, or recommend a salary range for any excluded or exempt employees that is less than the recommendation established by procedures of the Excluded and Exempt Compensation Advisory Commission, which would be created by this bill, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19826 of the Government Code is
- 2 amended to read:
- 3 19826. (a) The department shall establish and adjust salary
- 4 ranges for each class of position in the state civil service subject
- 5 to any merit limits contained in Article VII of the California
- 6 Constitution. The salary range shall be based on the principle that

1 like salaries shall be paid for comparable duties and
2 responsibilities. In establishing or changing these ranges,
3 consideration shall be given to the prevailing rates for
4 comparable service in other public employment and in private
5 business. The department shall make no adjustments that require
6 expenditures in excess of existing appropriations that may be
7 used for salary increase purposes. The department may make a
8 change in salary range retroactive to the date of application of
9 this change.

10 (b) Notwithstanding any other provision of law, the
11 department shall not establish, adjust, or recommend a salary
12 range for any employees in an appropriate unit where an
13 employee organization has been chosen as the exclusive
14 representative pursuant to Section 3520.5.

15 (c) At least six months before the end of the term of an
16 existing memorandum of understanding or immediately upon the
17 reopening of negotiations under an existing memorandum of
18 understanding, the department shall submit to the parties meeting
19 and conferring pursuant to Section 3517 and to the Legislature, a
20 report containing the department's findings relating to the
21 salaries of employees in comparable occupations in private
22 industry and other governmental agencies.

23 (d) If the provisions of this section are in conflict with the
24 provisions of a memorandum of understanding reached pursuant
25 to Section 3517.5, the memorandum of understanding shall be
26 controlling without further legislative action, except that if the
27 provisions of a memorandum of understanding require the
28 expenditure of funds, the provisions shall not become effective
29 unless approved by the Legislature in the annual Budget Act.

30 (e) *Notwithstanding any other provision of law, the*
31 *department shall not establish, adjust, or recommend a salary*
32 *range for any excluded or exempt employees, as defined in*
33 *Section 3527 and subdivisions (e), (f), and (g) of Section 4 of*
34 *Article VII of the California Constitution that is less than the*
35 *recommendation reached under subdivision (a) of Section*
36 *19826.10 by the Excluded and Exempt Compensation Advisory*
37 *Commission, except to the extent that the Legislature fails to fully*
38 *fund any provisions of the recommendations.*

39 SEC. 2. Section 19826.10 is added to the Government Code,
40 to read:

1 19826.10. (a) The Excluded and Exempt Compensation
2 Advisory Commission is hereby created and shall consist of
3 seven members. Notwithstanding any other provision of law to
4 the contrary, the commission shall annually recommend no later
5 than December 1 of each year to the Governor and to the
6 Legislature levels of salaries and benefits for all excluded and
7 exempt employees as defined in Section 3527 and subdivisions
8 (e), (f), and (g) of Section 4 of Article VII of the California
9 Constitution. At its discretion, the commission may recommend
10 a separate process, or distinct salary and benefit provisions, for
11 excluded and exempt employees who are not designated
12 supervisory or managerial under the Ralph C. Dills Act in
13 Section 3513. If the Legislature chooses to not fully fund the
14 recommendations, the recommendations shall be returned to the
15 commission for reconsideration or modification or both and at
16 least one meeting of the commission shall be held. Any changes
17 in salary or benefits made during the year shall be reported to the
18 commission so its member may incorporate any adopted changes
19 into its recommendations for the following year.

20 (b) The commission shall be appointed as follows:

21 (1) The Governor shall appoint three members of the
22 commission in accordance with the following:

23 (A) One member of the public who has experience in
24 compensation, personnel, salary determinations, or similar areas
25 of expertise and is not employed by the state and is not a member
26 of, nor employed by, an organization representing state
27 employees. This member shall serve without compensation, but
28 shall be reimbursed by the Department of Finance for necessary
29 reasonable expenses for attending meetings of the commission.

30 (B) Two representatives of state agencies or departments.
31 These members shall serve on the commission without additional
32 compensation and shall receive reimbursement for necessary and
33 reasonable expenses for attendance at meetings from their
34 appointing authorities.

35 (2) The Speaker of the Assembly and the President pro
36 Tempore of the Senate shall each appoint two member so the
37 commission in accordance with the following:

38 (A) One member of the public who has experience in
39 compensation, personnel, salary determinations, or similar areas
40 of expertise and is not employed by the state and is not a member

1 of, nor employed by, an organization representing state
2 employees. This member shall serve without compensation, but
3 shall be reimbursed by the Department of Finance for necessary
4 reasonable expenses for attending meetings of the commission.

5 (B) One officer or representative of a registered excluded
6 employee organization, as defined in the Bill of Rights for State
7 Excluded Employees in Section 3527.

8 (c) One of the original appointees of the Governor shall serve
9 a two-year term, one shall serve a four-year term, and one shall
10 serve a six-year term. One of the original appointees of the
11 Speaker of the Assembly shall serve a two-year term and one
12 shall serve a six-year term. One of the original appointees of the
13 President pro Tempore of the Senate shall serve a four-year term
14 and one shall serve a six-year term. Thereafter, commission
15 members shall serve six-year terms, except that any person
16 chosen to fill a vacancy shall be appointed only for the unexpired
17 term of the member whom he or she succeeds. Members of the
18 commission shall be eligible for reappointment. The seven
19 member commission shall elect a chairperson whose term as
20 chairperson shall be two years. Members of the commission may
21 be removed by their appointees upon notice and hearing for
22 neglect of duty or malfeasance or for loss of any required status
23 under subdivision (b), but for no other cause.

24 (d) A vacancy in the commission shall not impair the right of
25 the remaining members to exercise all the powers of the
26 commission, and four members of the commission shall at all
27 times constitute a quorum.

28 (e) Meetings of the commission shall be open to the public and
29 shall be conducted in accordance with the Bagley-Keene Open
30 Meeting Act (Article 9 (commencing with Section 11120) of
31 Chapter 1 of Part 1 of Division 3 of Title 2).

32 (f) It is the intent of the Legislature that the creation of the
33 commission shall not generate new state costs for staff and
34 services. The Department of Personnel Administration, the Board
35 of Administration of the Public Employees' Retirement System,
36 or other appropriate agencies, or their successors, shall furnish,
37 from existing resources, staff and services to the commission as
38 needed for the performance of its duties.

39 SEC. 3. Section 19826.11 is added to the Government Code,
40 to read:

1 19826.11. (a) The state recognizes that it is essential that the
2 state maintain a qualified, motivated and adequately
3 compensated supervisory and management team. To recruit and
4 retain those excluded employees requires the payment of salaries
5 and benefits that are competitive with those provided by other
6 public and private sector employers.

7 (b) To effect the intent of subdivision (a), the Excluded and
8 Exempt Compensation Advisory Commission shall use the
9 following factors and procedure in preparing its annual
10 recommendations for the establishment and maintenance of
11 appropriate and competitive levels of salaries and benefits for
12 excluded and exempt employees:

13 (1) In making its salary and benefits recommendations, the
14 commission shall consider specific data to generate its annual
15 recommendations including:

16 (A) Evaluation of salary survey results as follows:

17 (i) Each excluded and exempt classification shall be tied to a
18 benchmark classification and the comparison for the benchmark
19 shall be employed as the relative comparison for the classes tied
20 to the benchmark.

21 (ii) A survey of benchmark classifications shall be completed
22 by September 1, each year to determine how state compensation
23 for excluded and exempt employees compares with other
24 surveyed public employers.

25 (B) Cost of living indicators.

26 (C) Regional or other geographical considerations.

27 (D) Rank-and-file employee compensation.

28 (E) Compensation paid to comparable occupations or
29 benchmark classes in California cities, counties, special districts,
30 the University of California and California State University
31 systems, the federal government, and the private sector.

32 (F) Excluded employees' salaries, benefits, and other
33 compensation items and factors affecting these items.

34 (G) History of excluded employee salary and benefit changes.

35 (H) Timing of the change in the compensation process.

36 (I) Specific recruitment needs of the state.

37 (2) The commission's staff shall be responsible for conducting
38 the survey, evaluation the survey results, and presenting all other
39 relevant information to the commission at the direction of the
40 commission.

- 1 (3) The commission shall hold a minimum to two public
2 meetings per year with at least one meeting held in Northern
3 California and one meeting held in Southern California. The
4 commission shall notice all registered supervisory employee
5 organizations. The commission shall permit all affected
6 employees, excluded employee organizations, state departments
7 and agencies, and member of the public to make personations
8 before the commission prior to the adoption, publication and
9 presentation of its annual recommendations.
- 10 (4) The commission shall make its annual recommendations as
11 adopted by a majority of the membership of the commission to
12 the Legislature and to the Governor no later than December 1 of
13 each year. The annual recommendations shall be in writing and
14 shall include cost estimates of implementing the
15 recommendations.